CHAPTER 3.7
LAND USE ANALYSIS

The following chapter discusses the project from the perspective of its physical and regulatory land use setting and provides an analysis of relevant local, state and regional land use planning policies. Aside from the policy impacts to land use analyzed in this section, a number of additional topics which may have direct impacts on land uses are addressed throughout *Section 3.0* of this EIR/EIS, including visual resources, noise, health and safety, and hydrology.

3.7.1 Affected Environment

BLM Land Use Classifications

The California Desert Conservation Area Management Plan

The California Desert Conservation Area contains 25 million acres from the Mono Lake Basin to the north, south to the Mexican border, from Nevada and Arizona to the east and several Southern California national forests to the west.

The Bureau of Land Management (BLM) developed the California Desert Conservation Area Management Plan (CDCAMP) to "provide for the immediate and future protection and administration of the public lands in the California Desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality." The Plan was developed in 1980 with various plan amendments incorporated in the 1999 CDCA Plan with the most recent amendment prepared in a 2002 CDCA Plan Amendment. The primary goal of this plan is to "provide for the use of the public lands and resources of the California Desert Conservation Area (CDCA), including economic, educational, scientific, and recreational uses, in a manner which enhances, wherever possible and, which does not diminish, on balance the environment, cultural, and aesthetic values of the Desert and its future productivity." The plan seeks to balance multiple use, sustained yield, and overall environmental quality in management of public lands covered by the CDCA. The BLM Multiple Use class guidelines include the following categories:

Multiple Use Class C (Controlled)
These are areas that are "preliminarily recommended" as suitable for wilderness designation by Congress. It is also used to show areas which have been formally designated for wilderness. This designation does not allow agriculture, energy generation, transmission lines, communication sites, livestock grazing, or motor vehicle access (except as specified in individual legislation). Passive recreation and limited mineral exploration is allowed.

Multiple Use Class L (Limited Use)
This use class is for Limited Use, and protects sensitive, natural, scenic, ecological and cultural resource values. Public lands designated as Class L are managed to provide for generally lower-

intensity, carefully controlled multiple use of resources, while ensuring that sensitive values are not significantly diminished. Land uses which are not allowed include agriculture, hazardous waste disposal, and intensive recreational use including motor vehicles. Allowable uses include wind and geothermal energy, subject to NEPA requirements, new transmission lines for interstate communication, new communication sites, livestock grazing subject to protection of sensitive resources, and limited mineral extraction and exploration. BLM-managed lands within the proposed CVMSHCP conservation area which are outside other BLM conservation areas are designated as a Wildlife Habitat Management Area and are also classified as Multiple-Use Class L. The Wildlife Habitat Management Area designation contains a number of goals and policies which are included in the CDCA Plan Amendment including direction to conserve at least 99% of extant sand dunes and sand fields in that habitat type. Further discussion of goals and policies in the CDCA Plan Amendment and their consistency with the proposed project is contained in Section 3.7.3.

Multiple Use Class M (*Moderate Use*)
Multiple-Use Class M (Moderate Use) is based upon a controlled balance between higher intensity use and protection of public lands. This class provides for a wide variety of present and future uses such as mining, livestock grazing, recreation, energy, and utility development. Class M management is also designed to conserve desert resources and to mitigate damage to those resources which permitted uses may cause.

Multiple Use Class I (Intensive Use)
Multiple-Use Class I is an "Intensive Use" class. Its purpose is to provide for concentrated use of lands and resources to meet human needs. Reasonable protection will be provided for sensitive natural and cultural values. Mitigation of impacts on resources and rehabilitation of impacted areas will occur insofar as possible.

Unclassified Lands
These parcels will be managed on a case-by-case basis, as explained in the Land Tenure Adjustment Element. The class designations govern the type and degree of land-use actions allowed within the areas defined by class boundaries. All land-use actions and resource-management activities on public lands within a multiple-use class delineation must meet the guidelines set forth for a particular land use within Table 1 of the CDCAMP.

<u>The Santa Rosa and San Jacinto Mountains National Monument</u>

The Santa Rosa and San Jacinto Mountains National Monument was established in 2000 and is managed by the BLM and U.S. Forest Service. The Monument was established "in order to preserve the nationally significant biological, cultural, recreational, geological, educational and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, landforms and natural and cultural resources of these mountains and to recreate therein…" (*Proposed Management*

Plan for the Santa Rosa and San Jacinto Mountains National Monument/FEIS, October 2003). The portion of the National Monument managed by BLM is also within the California Desert Conservation Area. In early 2004, the BLM and the U.S. Forest Service completed the Santa Rosa and San Jacinto Mountains National Monument Management Plan. The Monument boundary is less than one mile to the west of Section 28, adjacent to the west side of Highway 111.

Multiple Species Habitat Conservation Plan

The *Final Coachella Valley Multiple Species Habitat Conservation Plan* (CVMSHCP) and Final EIR for the Plan was approved by the Coachella Valley Association of Governments (CVAG) on February 6, 2006. The CVMSHCP was then sent to the cities of the Coachella Valley, the County of Riverside and other Permittees for their consideration, but was not approved by one of the cities, Desert Hot Springs. The CVMSHCP will be updated to reflect this change and resubmitted to the various agencies for final approval. The previously approved Plan identifies 11 protected species in the valley and 16 others that could become threatened in the next 75 years. The existing Plan includes habitat for the 27 species and divides it into 21 conservation areas over 747,400 acres of the 1.1 million-acre planning area. About 534,200 acres are already protected because they are public land or owned by conservation groups. The Plan identifies an additional 180,000 acres designated as Conservation Areas which allows limited development. Management and administration of the Conservation Areas would be paid in part by collection of fees for development within the Plan and additional funds would come from sales taxes for transportation, tipping fees at County landfills and from state and federal agencies (cvmshcp.org). The project site occurs within the Whitewater Floodplain Conservation area of the Plan as currently delineated.

City of Palm Springs Land Use Classifications

General Plan

The project site is within the Watercourse designation of the Open Space category in the Palm Springs General Plan. The Watercourse category delineates defined floodway areas to be retained to transport floodwaters, thereby preventing harm to persons and property from flood hazards. Areas designated as Watercourse may be permitted for restricted recreational use with approval of the City and responsible flood control agency. No habitable structures are permitted. Wind Energy Conversion Systems (WECS) are permitted in all Open Space categories (other Open Space categories include Desert, Conservation, Parks and Recreation) where such areas are also in the Wind Energy Overlay. General Plan designations for the project area are shown on *Figure 3.7-1, Palm Springs General Plan Land Use Map*.

Zoning

The Palm Springs Zoning Code also designates the project area as Watercourse which specifies that where properties shall be used as floodways, drainage channels, debris basins, and other flood protection facilities, or where information is not available or is not sufficiently accurate, a

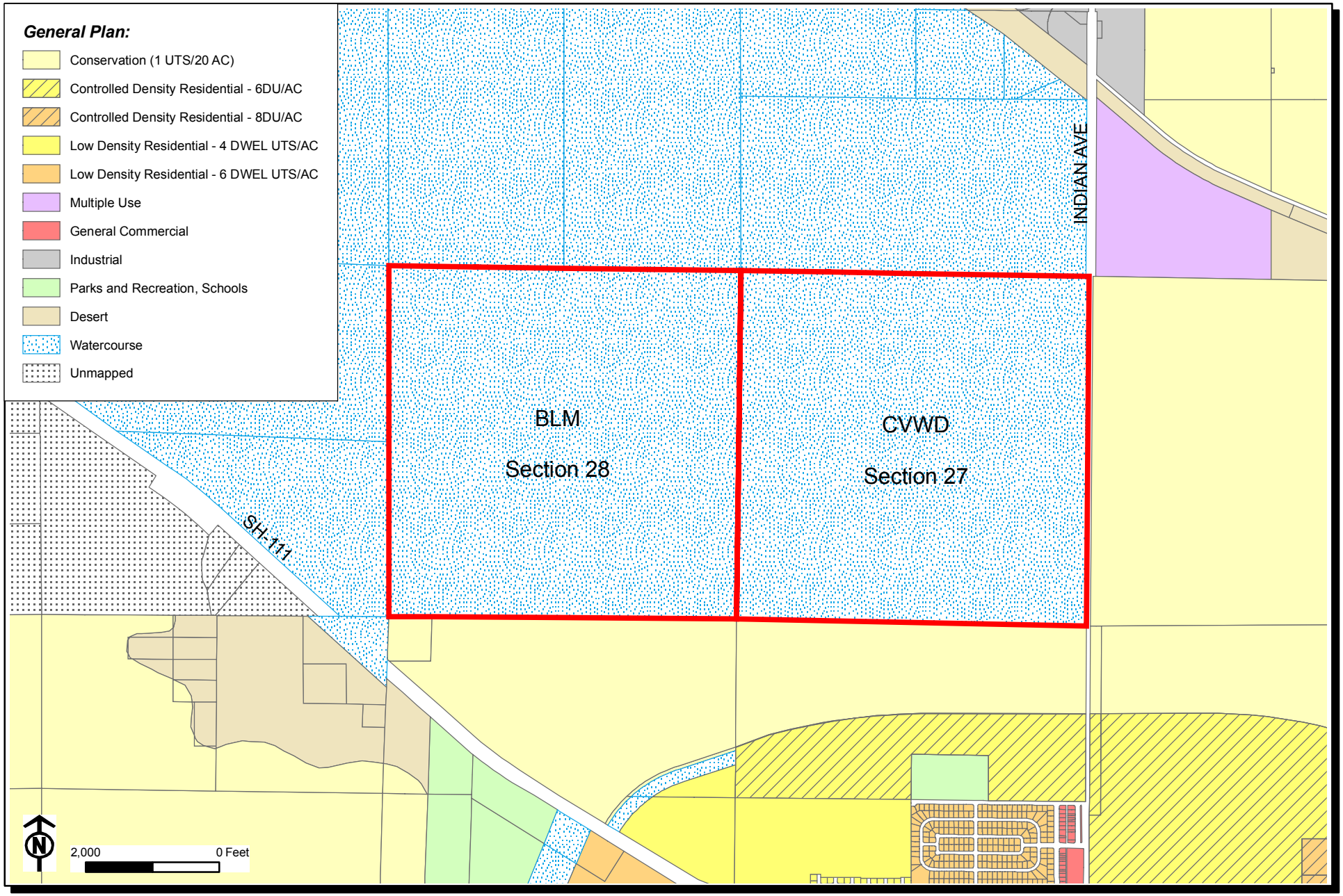
designation of "W" without suffix shall be used. A "W" watercourse zone classification symbol will be placed as a prefix before the zoning designation on all properties in the city of Palm Springs, which under present conditions fall within the one hundred (100) year floodway fringe and are, at present, subject to sporadic flooding and other hazards in the event of a one hundred (100) year flood as established by the adoption of Federal Emergency Management Agency (FEMA) flood maps. Zoning designations for the project area are shown on *Figure 3.7-2, Palm Springs Zoning Map*.

Existing Land Uses

Section 27 is currently vacant, and consists of disturbed desert scrub vegetation and a levee/berm and chain link fence traverses the site in the western half of the section. Section 28 is mostly vacant with some old wind generation facilities, numerous gravel roads, vacant control equipment buildings, electric pole lines, and foundations onsite left over from the former Sandburg wind energy facility. An existing windfarm is located in the northwestern corner of Section 28.

Surrounding Land Uses

Surrounding land uses can be seen in *Figure 3.1-1* in *Section 3.1*. The residential homes located in the Mountain Gate community and the adjacent Desert Highland neighborhood, both located south of the project site, are considered sensitive land uses. Project design is subject to the noise, safety, and visual standards of the City's Wind Energy Policy.

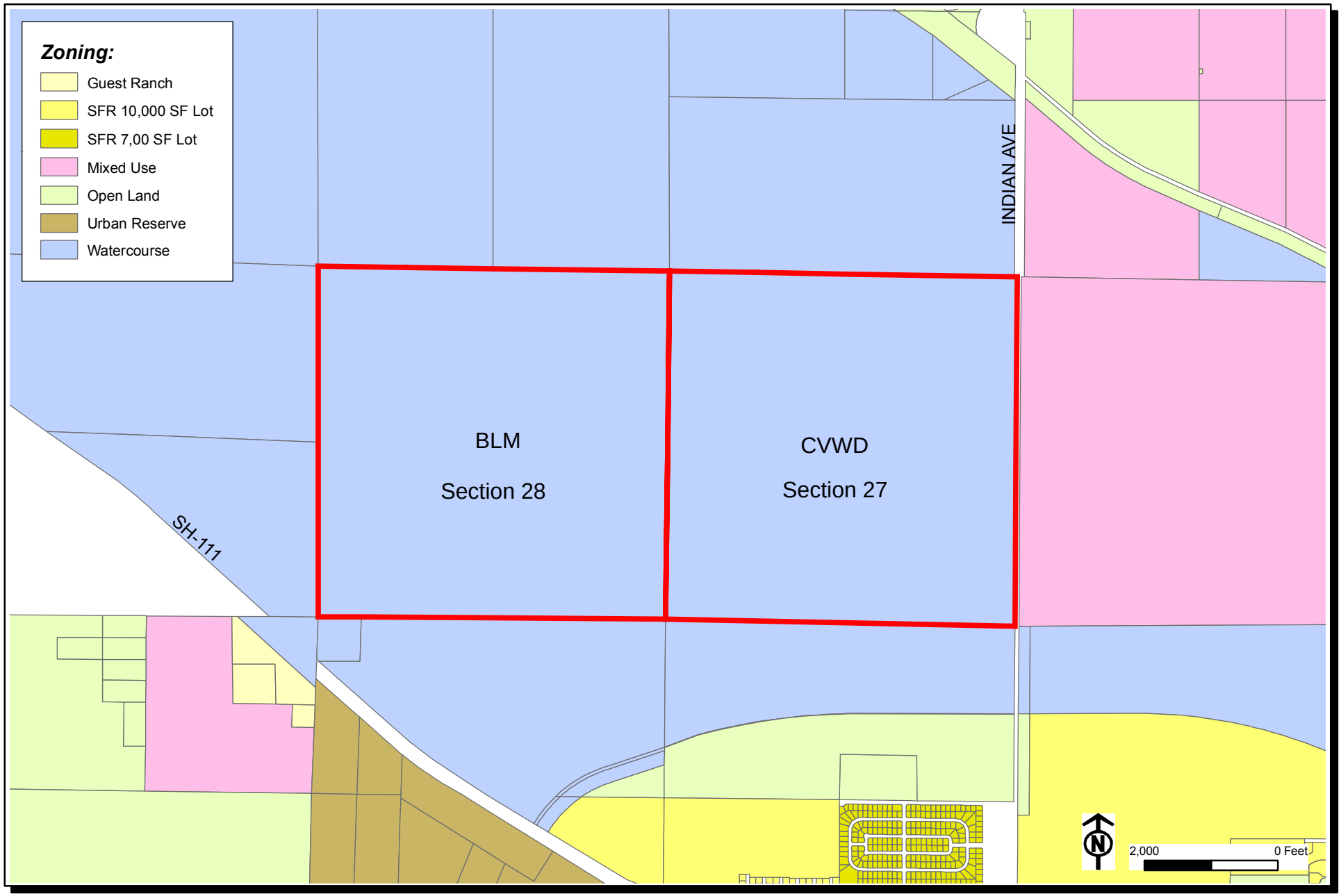


BASE MAP SOURCE: City of Palm Springs General Plan Map, 4-22-97

Mountain View IV Wind Energy Project EIS/EIR

Palm Springs General Plan Land Use Map

FIGURE 3. 7- 1



BASE MAP SOURCE: City of Palm Springs Ofiicial Zoning Map, 11-9-01

Mountain View IV Wind Energy Project EIS/EIR

Palm Springs Zoning Map

FIGURE 3.7-2

3.7.2 Regulatory Setting

BLM Wind Energy Policies

Final Programmatic EIS on Wind Energy Development

The U.S. Department of the Interior (DOI), Bureau of Land Management (BLM), is responsible for the development of wind energy resources on BLM-administered lands. Currently, about 500 MW of installed wind capacity occurs under right-of-way (ROW) authorizations administered by the BLM. An Interim Wind Energy Development Policy (BLM 2002) was developed, in part, in response to the National Energy Policy recommendations that the Departments of the Interior, Energy, Agriculture, and Defense work together to increase renewable energy production (NEPDG 2001). The interim policy was consistent with the requirements of Executive Order (E.O.) 13212, "Actions to Expedite Energy- Related Projects," issued May 2001, that federal agencies take appropriate actions, to the extent consistent with applicable law, to expedite projects to increase the production, transmission, or conservation of energy. To further support wind energy development on public lands and also to minimize potential environmental and sociocultural impacts, the BLM sought to build on the interim policy by establishing a Wind Energy Development Program. The BLM determined that development of such a policy would constitute a major federal action as defined by NEPA requiring an Environmental Impact Statement to be prepared.

Therefore, the *Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States* (PEIS) was prepared by the BLM in June 2005. A Record of Decision approving implementation of this document and associated land use plan amendments was published in the *Federal Register* on January 11, 2006. The objectives of the PEIS were to evaluate impacts associated with wind energy development on BLM-administered land and to evaluate alternatives in terms of mitigating potential impacts and facilitating wind energy development. Elements of the BLM's proposed Wind Energy Development Program include (1) an assessment of wind energy development potential on BLM-administered lands through 2025 (a 20-year period); (2) policies regarding the processing of wind energy development ROW authorization applications; (3) best management practices (BMPs) for mitigating the potential impacts of wind energy development on BLM-administered lands; and (4) amendments of specific BLM land use plans to address wind energy development.

The following is a partial list of policies that were adopted as part of the BLM Wind Energy Development Program and may be relevant to the proposed project:

- The BLM will not issue ROW authorizations for wind energy development on lands on which wind energy development is incompatible with specific resource values. Lands that will be excluded from wind energy site monitoring and testing and development include designated areas that are part of the National Landscape Conservation System (NLCS) (e.g., Wilderness

Areas, Wilderness Study Areas, National Monuments, NCAs, Wild and Scenic Rivers, and National Historic and Scenic Trails) and Areas of Critical Environmental Concern (ACECs). Additional areas of land may be excluded from wind energy development on the basis of findings of resource impacts that cannot be mitigated and/or conflict with existing and planned multiple-use activities or land use plans.

- To the extent possible, wind energy projects shall be developed in a manner that will not prevent other land uses, including minerals extraction, livestock grazing, recreational use, and other ROW uses.

- Entities seeking to develop a wind energy project on BLM-administered lands shall consult with appropriate federal, state, and local agencies regarding specific projects as early in the planning process as appropriate to ensure that all potential construction, operation, and decommissioning issues and concerns are identified and adequately addressed.

- The BLM will initiate government-to-government consultation with Indian Tribal governments whose interests might be directly and substantially affected by activities on BLM-administered lands as early in the planning process as appropriate to ensure that construction, operation, and decommissioning issues and concerns are identified and adequately addressed.

- The BLM will consult with the U.S. Fish and Wildlife Service (USFWS) as required by Section 7 of the Endangered Species Act of 1973 (ESA). The specific consultation requirements will be determined on a project-by-project basis.

- The BLM will consult with the State Historic Preservation Office (SHPO) as required by Section 106 of the National Historic Preservation Act of 1966 (NHPA). The specific consultation requirements will be determined on a project-by-project basis. If programmatic Section 106 consultations have been conducted and are adequate to cover a proposed project, additional consultation may not be needed.

- The level of environmental analysis to be required under NEPA for individual wind power projects will be determined at the Field Office level. In certain instances, it may be determined that a tiered environmental assessment (EA) is appropriate in lieu of an EIS. To the extent that this PEIS addresses anticipated issues and concerns associated with an individual project, including potential cumulative impacts, the BLM will tier off of the decisions embedded in the PEIS and limit the scope of additional project-specific NEPA analyses.

- Site-specific environmental analyses will tier from the PEIS and identify and assess any cumulative impacts that are beyond the scope of the cumulative impacts addressed in the PEIS.

- Entities seeking to develop a wind energy project on BLM-administered lands shall develop a project-specific plan of development (POD) that incorporates all proposed BMPs (PEIS Section 2.2.3.2) and, as appropriate, the requirements of other existing and relevant BLM mitigation guidance, including the BLM's interim off-site mitigation guidance (PEIS Section 3.6.2). Additional mitigation measures will be incorporated into the POD and into the ROW authorization as project stipulations, as needed, to address site-specific and species-specific issues.

- The BLM will consider the visual resource values of the public lands involved in proposed wind energy development projects, consistent with BLM Visual Resource Management (VRM) policies and guidance. The BLM will work with the ROW applicant to incorporate visual design considerations into the planning and design of the project to minimize potential visual impacts of the proposal and to meet the VRM objectives of the area.

- The BLM's proposed Wind Energy Development Program will incorporate adaptive management strategies to ensure that potential adverse impacts of wind energy development are avoided (if possible), minimized, or mitigated to acceptable levels.

City of Palm Springs Wind Energy Policies

Section 94.02.00(H)(8) of the Palm Springs Municipal Code regulates Commercial Wind Energy Conversion Systems (WECS). Per requirements of this Section, a conditional use permit is required for a WECS project. The conditions of the permit are meant to ensure a safe and beneficial environment, for both the WECS development and the adjacent properties. Commercial WECS projects are allowed in all open space zones with the requirement that a CUP be approved. The CUP allows wind turbines, meteorological towers and specified accessory uses. The applicant is requesting a three-year expiration date on the CUP instead of the standard two-year period, which the City allows under the above section of the Municipal Code, provided the request does not exceed five years and is approved by the City Council and Planning Commission. This provision would be added to the Conditions of Approval for the project if acceptable to the Council and Commission.

There are a number of safety provisions contained in the CUP regulations including setbacks of 1.25 times the total WECS height from any lot line and that no commercial WECS shall be located where the center of the tower is within two hundred (200) feet from any lot line of a lot which contains a dwelling. The City's property line setback requirement between Section 27 (BLM) and Section 28 (CVWD) will be waived by a separate agreement between the applicant and those two public agencies for a period of twenty-six (26) years from the date of such agreement.

Scenic setbacks include the following:

- No commercial WECS shall be located where the center of the tower is within one thousand

three hundred fifteen (1,315) feet (one-quarter (¼) mile) of State Highway 62 and of that portion of Interstate 10 between State Highway 62 and the Whitewater River, commonly known as the Whitewater Grade.
- No commercial WECS shall be located where the center of the tower is within five hundred (500) feet of Indian Canyon Drive/Indian Avenue.
- No commercial WECS shall be located where the center of the tower is within three thousand four hundred seventy-two (3,472) feet (two-thirds (2/3) mile) of State Highway 111.
- No commercial WECS shall be located where the center of the tower is within five hundred (500) feet of Interstate 10, except as specified in subsection (H)(8)(v)(A) of Section 94.02.00.

3.7.3 Environmental Consequences

Methodology and Significance Criteria

CEQA Significance Criteria

Appendix G of the State CEQA Guidelines (Cal. Code Regs. Title 14 §15000 et seq., 1998) states that the project would have a significant effect on land use if it would:

- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
- Result in substantial physical effect on the environment or persons occupying nearby property resulting from actions that are inconsistent with established City land use regulations or policies.
- Physically divide an established community.
- Conflict with any applicable habitat conservation plan or natural community conservation plan.

Proposed Project Impacts

BLM's California Desert Conservation Area Management Plan Land Use

Section 28 and most of Section 22 are in Multiple Use Class "L" (Limited Use) under the California Desert Conservation Area Management Plan (CDCAMP) as amended in 2002. A small area of the northern portion of Section 22 is classified as Multiple Use Class "M" (Moderate Use). As discussed under Section 3.7.1, BLM-managed lands within the proposed CVMSHCP conservation areas which are outside other BLM conservation areas are designated as a Wildlife Habitat Management Area and are also classified as Multiple-Use Class L. Section 28 and a portion of Section 22 are proposed CVMSHCP conservation areas (the CVMHCP is currently being revised to reflect changes in Conservation Area boundaries), and are therefore classified under these

designations under the CDCAMP. The CDCAMP established eight vegetation community types for lands in conservation areas. These include Desert Scrub Communities and Sand Dunes and Sand Fields, which are both present in Sections 22 and 28. Conservation objectives for these community types which may pertain to the project include:

Sand Dunes and Sand Fields

- Conserve at least 99% of extant sand dunes and sand fields
- Avoid stabilization of sand dunes due to adjacent development and spread of non-native species.
- Avoid disturbance and compaction of sandy habitats associated with CV milk-vetch plants
- Minimize loss of native vegetation, minimize habitat fragmentation and maintain habitat patch connectivity.

Desert Scrub Communities

- Conserve at least 99% of extant scrub communities
- Maintain and enhance where feasible, wind blown and water borne sand transport systems
- Avoid disturbance and compaction of sandy habitats associated with CV milk-vetch plants
- Minimize loss of native vegetation, minimize habitat fragmentation and maintain habitat patch connectivity.

With regard to the above objectives, the biological analysis (*Section 3.2*) found that the project would not significantly alter free movement of wildlife or result in substantial removal of habitat; would have no significant impact on the movement and depositing of blowsand in the Whitewater Floodplain Reserve Area; and that impacts to sand dwelling species would affect less than one percent of the project area. Although no significant biological impacts were identified, *Section 3.2.4* identifies detailed measures to protect sensitive sand dwelling species and is therefore in compliance with the objectives of the CDCAMP.

Under Multiple Use Classes L and M, wind farms may be allowed in accordance with State, Federal, and local laws and existing wind energy facilities may be maintained and upgraded or improved in accordance with special-use permits or by amendments to rights-of-way. The proposed project will be in accordance with all applicable State, Federal and local laws; therefore, the project would not conflict with the policies of the CDCAMP land uses for the site.

The Santa Rosa and San Jacinto Mountains National Monument Plan

As discussed above under Affected Environment, the project site is not within the boundaries of this Monument, but is less than one mile from the project boundary to the west of Highway 111 (refer to *Figure 1.2-3, Federally Managed Lands in the Coachella Valley*). The nearest wind turbines to the Monument Boundary will be set back from Highway 111 by 2/3 of a mile per requirements of the Palm Springs Municipal Code for wind energy projects (See *Section 3.7.2* above, City of Palm

Springs Wind Energy Policies). Therefore, as the project is well outside of Monument boundaries and no significant impacts have been identified that would affect the Monument Plan.

City of Palm Springs General Plan and Zoning

The project site is within the Watercourse designation of the Open Space category in the Palm Springs General Plan and Zoning Ordinance. Wind energy turbines are permitted in this designation with the approval of a Conditional Use Permit (CUP). With approval of the CUP and Variance for Safety Setback at the internal lot line between Sections 27 and 28, the project would not conflict with the City's General Plan and Zoning policies.

City of Palm Springs Wind Energy Policies

In addition to the City's General Plan and Zoning policies, the project is subject to the City's Wind Energy Policies. These policies are explained above and include safety setback requirements in order to be compatible with surrounding land uses. The project conforms to all requirements of the City's Wind Energy Policies; therefore, the project would have a less than significant impact with respect to the City's policies for wind energy.

Coachella Valley Multiple Species Habitat Conservation Plan

As discussed in *Section 3.7.1*, the *Final Coachella Valley Multiple Species Habitat Conservation Plan* (CVMSHCP) and Final EIR for the Plan was approved by the Coachella Valley Association of Governments (CVAG) on February 6, 2006, but is currently being revised to reflect a portion of the Plan Area being removed. Should this plan be implemented prior to project approval, a portion of the project site may be subject to collection of fees for that area within the Whitewater Floodplain Conservation Area. Due to limited site disturbance (i.e., one percent or less of site area), it is not anticipated that implementation of the Plan would preclude development as currently proposed, even if the Plan were to be implemented prior to project approval. Therefore, no significant impacts related to the CVMSHCP have been identified.

Surrounding Land Uses

The proposed project would not divide any established communities since there are no residences onsite and the nearest communities are approximately 2/3 of a mile south of the site. No substantial physical effects on the environment or persons occupying nearby property will result from actions that are inconsistent with established land use regulations or policies. Typical compatibility issues of wind farms include potential impacts associated with noise, visual, and hazards and public safety. A thorough discussion of the project's compatibility with regard to these issues is found in *Section 3.1 Visual Resources*, *Section 3.5 Public Health and Safety* and *Section 3.8 Noise*.

3.7.4 Mitigation Measures

No significant impacts have been identified; therefore, no mitigation measures are required.

3.7.5 Reduced Development Alternative

The reduced development alternative would develop turbines only in Section 28 on BLM land. The site, under this alternative, would only be subject to BLM land use policies. The site would not require any permitting from the City of Palm Springs and would not be subject to the City's land use policies. Since the proposed project complies with all land use policies and would obtain all necessary permits for development, the reduced development alternative would not be viewed as superior to the proposed project (preferred alternative).

3.7.6 No Project Alternative

Under the no project alternative, no development would take place and the site would remain in its present condition. Since current land use designations allow development of the proposed project and no significant land use impacts have been identified, the No Project alternative is not viewed as significantly superior to the project.